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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,276	10/25/2005	Harry Kiemele	502901-428PUS	3051
27799 7590 04/16/2010 COHEN, PONTANI, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER EVANSKO, LESLIE J				
ART UNIT 2854		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Claims 2, 4-7, 9 and 11-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 28, 2008.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Boreali et al. (US 6,210,515 B1).

With respect to claims 16 and 20, Boreali et al. teach a printer 10 comprising a supply 12 of printing medium; a medium transport device (i.e., the drive for platen roller 16) arranged such that the printing medium can be conveyed in an output transport direction; a control unit 20 to control the medium transport device; and where the control unit is arranged to activate the medium transport device in such a way that, at the start of an activation of the printer caused by a print job and before processing the print job, the medium transport device carries out a rest state (i.e., standby time), within which

rest state transport, the medium transport device transports the printing medium in and counter to the output transport direction. Particular attention is invited to Figures 3 and column 4, line 30 through column 5, line 17.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3, 8, 10, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai et al. (JP 11-320989 A) in view of Boreali et al. (US 6,210,515 B1).

With respect to claims 1 and 18, Sakai et al. teach a printer comprising a supply of printing medium 1; a medium transport device (i.e., the drive for platen roller 3) arranged such that the printing medium can be conveyed in an output transport direction; a control unit to control the medium transport device; and where the control unit is arranged such that the control unit activates the medium transport device in such a way that the medium transport device carries out a rest state (i.e., standby time) transport at periodic intervals, even without the presence of a print job, wherein during the rest state transport, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 1-4, the English language abstract, and the previously attached partial English language translation of Sakai et al. Note that Sakai et al. teach the rest state transport including the transport of the printing medium in and counter to the output transport direction occurs during a waiting or standby period between prints.

Note that Sakai et al. teaches carrying out a rest state transport at periodic intervals, but fail to specifically teach the transport device carries out a rest state transport at the start of an activation of the printer caused by a print job before processing the print job. However, Boreali et al. teach performing a rest state transport of the printing medium at the start of an activation of the printer caused by a print job before processing the print job is well known in the art. See, for example, Figure 3 and column 4, line 30 through column 5, line 18 of Boreali et al. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the rest state transport of Sakai et al. to also occur at the start of activation of the printer as taught by

Boreali et al. to insure that there is no inadvertent sticking of the print material to the drive roller caused by long wait times between activation of the printer for various print jobs.

With respect to claim 3, Sakai et al. teach the control unit is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible.

With respect to claims 8 and 19, Sakai et al. teach a method of controlling a printer comprising transporting a printing medium 1 with a medium transport device, even without a print job, in and counter to an output transport direction at periodic intervals during rest state transport. Sakai fails to teach transporting the printing medium at the start of an activation of the printer caused by a print job before processing the print job. However, Boreali et al. teach performing a rest state transport of the printing medium at the start of an activation of the printer caused by a print job before processing the print job is well known in the art. See, for example, Figure 3 and

column 4, line 30 through column 5, line 18 of Boreali et al. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the transporting of the printing medium of Sakai et al. to also occur at the start of activation of the printer as taught by Boreali et al. to insure that there is no inadvertent sticking of the print material to the drive roller caused by long wait times between activation of the printer for various print jobs.

See the previous comments with respect to claim 1. Although the printer of Sakai et al. does not specifically state that it may be used for printing out a report for a tachograph in a commercial vehicle, this language in the preamble is merely a functional recitation of an intended use and since the body of the claim fails to further limit the printer structure to that particular environment, it is the Examiner's position that the printer of Sakai et al. is capable of being used to print out a report for a tachograph as recited and thereby meets the claim language as recited. Particular attention is invited to MPEP 2111.02.

With respect to claim 10, Sakai et al. teach the method includes during the rest state transport, the printing material is initially conveyed from an initial position counter to the output transport direction and is then transported back into the initial position in the output transport direction in paragraph [0014].

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boreali et al. (US 6,210,515 B1) in view of Sakai et al. (JP 11-320989 A).

With respect to claim 17, Boreali et al. teach the printer as recited with the exception of the control unit conveying the printing medium in the particular manner as recited. Specifically, note Boreali et al. teach conveying the printing medium from an initial position to a position in the same direction as the output transport direction (position aligned with cutter 18) and then transporting the printing medium back to a print position. Thus, Boreali et al. fails to specifically teach a conveying step including conveying the printing medium from an initial position counter to the output transport direction. However, Sakai et al. teach a control unit that is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the particular conveying steps as taught by Sakai et al. in the printer of Boreali et al. as it would simply require the obvious substitution of one known conveying cycle for another to prevent sticking of the printing medium to the drive roller.

Response to Arguments

8. Applicant's arguments filed December 29, 2009 have been fully considered but they are not persuasive of any error in the above rejections.

In particular, applicant argues that Boreali does not teach a rest state transport at the start of an activation of the printer caused by a print job before processing of the print job. The applicant points to the teaching of Boreali that the drive roller 16 is operated in a forward rotation before formatting the printer and in a reverse rotation after formatting the printer prior to printing and argues that there is no teaching in Boreali that the forward rotation of the drive roller is caused by a print job.

The examiner disagrees with these arguments. In particular, it is the Examiner's position that Boreali clearly shows in the flow chart of Figure 3 that the medium transport device carries out a rest state transport at the start of activation of the printer caused by a print job before processing the print job as shown in steps 27, 29 and 30 in particular. In the analysis of the claim language, the Examiner considers "a print job" to be a desire to print a particular set of images onto a medium. Furthermore, the Examiner considers the "processing of the print job" to be an actual printing operation to print the images onto the medium (such as shown at step 30 in Boreali). Boreali clearly show that the movement of the medium in and/or opposite the output transport direction (steps 27 & 29) occurs before processing of the print job (i.e. before printing in step 30) and is caused by activation of the printer when it is powered on to begin the desired print job. Therefore, it is the Examiner's position that Boreali does teach a rest state

transport at the start of an activation of the printer caused by a print job before processing the print job. Thus, the Examiner maintains that it would have been obvious to one of ordinary skill in the art to provide a rest state transport in the printer of Sakai at the start of an activation of a printer as taught by Boreali to insure that there is no inadvertent sticking of the print material to the drive roller caused by long wait times between activation of the printer for various print jobs.

In view of this reasoning, the Examiner is not persuaded of any error in the above rejections.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie J. Evanisko/
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
March 25, 2010

/Leslie J. Evanisko/
Primary Examiner, Art Unit 2854



U.S. DEPARTMENT OF COMMERCE
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EXAMINER'S CASE ACTION WORKSHEET

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1340 73653285410554276



Legal Instrument Examiner

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DATE OF COUNT

<input type="checkbox"/> Non-Final Rejection	<input type="checkbox"/> Restriction/Election Only	<input checked="" type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
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<input type="checkbox"/> Defective Notice of Appeal	<input type="checkbox"/> Interference Disposal SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension (Examiner-Initiated) SPE _____ (Initial)
<input type="checkbox"/> Defective Appeal Brief	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Supplemental Examiner's Amendment
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
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<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Other

Examiner's Name: Leslie J. Evanisko

AU: 2854